

Ordinance
4-1005 & Amendments

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Chris
Secord
Graham

AN ORDINANCE

Amending The Business License Ordinance Provisions For Insurance Companies and Brokers

BE IT ORDAINED by the Mayor and Council of the City/Town of _____
_____, that the Business License Ordinance is amended by
changing the provisions for insurance companies and brokers to read as follows:

SECTION 1.

SIC CODE

63 Insurance Companies: On gross premiums collected through offices or agents located in the municipality, wherever the risk is located, or collected on policies written on property or risks located in the municipality, wherever the premiums are collected.

Gross premiums shall include new and renewal business without deductions for any dividend, credit, return premiums or deposit.

Solicitation for insurance, receiving or transmitting an application or policy, examination of a risk, collection or transmitting of a premium, adjusting a claim, delivering a benefit, or doing any act in connection with a policy or claim shall constitute doing business within the municipality whether or not an office is maintained therein. A premium collected on property or a risk located within the municipality shall be deemed to have been collected within the municipality.

631-632 Life, Health and Accident 0.75% of Gross Premiums
[Declining rates shall not apply.]

633-635 Fire and Casualty 2% of Gross Premiums
[Declining rates shall not apply.]

636 Title Insurance 2% of Gross Premiums
[Declining rates shall not apply.]

6411 Brokers for Fire & Casualty Insurers - Non-admitted:
On gross premiums collected on policies of companies not licensed in South Carolina, the broker shall pay annually, to the Municipal Association of South Carolina with a copy of the report required by the Insurance Commission showing location of the risk insured 2% of Gross Premiums
[Premiums for non-admitted business are not included in broker's gross commissions for other business. Declining rates shall not apply.]

SECTION 2.

Notwithstanding any other provisions of this ordinance, license taxes for insurance companies and brokers for non-admitted insurers shall be payable on or before May 31 in each year without penalty. The penalty for delinquent payments shall be 5% of the tax due per month, or portion thereof, after the due date until paid.

SECTION 3.

Exemptions in the business license ordinance for income from business in interstate commerce are hereby repealed. Gross income from interstate commerce shall be included in the gross income for every business subject to a business license tax.

SECTION 4.

Pursuant to S. C. Code Ann. §5-7-300, the Agreement with the Municipal Association of South Carolina for collection of current and delinquent license taxes from insurance companies and brokers for non-admitted insurers in the form attached hereto is approved, and the Mayor is authorized to execute it.

All ordinances in conflict with this ordinance are hereby repealed.

This ordinance shall be effective on the date of final reading.

First reading: _____

Mayor

Final reading: _____

ATTEST:

Clerk

AGREEMENT

For Collection Of All Business License Taxes From Insurance Companies and Brokers For Non-Admitted Insurance Companies

WHEREAS, the MUNICIPAL ASSOCIATION OF SOUTH CAROLINA has developed a program for statewide collection of all current and delinquent business license taxes due from insurance companies licensed in this state, and is continuing a program for collection of business license taxes from brokers for non-admitted surplus lines insurers insuring risks in this state, in which some municipalities participate; and

WHEREAS, participating municipalities have adopted uniform rates and delinquent penalties for insurers and brokers, and a uniform due date of May 31 for such license taxes; and

WHEREAS, municipalities are authorized to contract for assistance in collection of business license taxes pursuant to S.C. Code Ann. §5-7-300; now therefore,

WITNESSETH

THIS AGREEMENT is made between the MUNICIPAL ASSOCIATION OF SOUTH CAROLINA (MASC) and the City/Town of _____
(Municipality)

It is agreed between the parties as follows:

1. MASC will make the necessary investigations, develop a database for the Municipality, establish procedures for determining the amount of business license taxes due, communicate with insurance companies and brokers subject to the taxes, collect all current and delinquent business license taxes due from insurers and from brokers on an annual basis.
2. MASC will bear all expenses incurred in connection with the services rendered.
3. MASC will deposit all funds received in an appropriate account for which accurate records will be maintained. Taxes collected for the municipality, less the service charge herein agreed to, will be disbursed to the Municipality on a monthly basis, unless otherwise agreed.
4. MASC is hereby designated as the exclusive agent of the Municipality for assessment and collection of the said business license taxes and penalties utilizing all procedures and actions authorized by ordinance or State law, and such procedures and actions may be invoked in the name of the Municipality without further approval by the Municipality.
5. MASC will notify all insurance companies licensed in the State of this agreement and the requirement that all business license taxes be paid to MASC.

6. The Municipality acknowledges that it is an essential element of the programs for all such taxes to be paid to MASC, and no such taxes will be accepted, waived or compromised by the Municipality directly from or with an insurer or broker. All communications from insurance companies and brokers will be sent to MASC. Payments accepted by the Municipality will be included in the computation of compensation to MASC.
7. The Municipality shall provide MASC with a report on the collection of insurance company license taxes for the last full year prior to the agreement.
8. The Municipality agrees that MASC shall retain four (4%) percent of all funds collected for the Municipality pursuant to this agreement, together with any interest earned on funds held on deposit prior to disbursement, as compensation for the services rendered.
9. The Municipality represents that this agreement has been approved by ordinance duly adopted pursuant to S.C. Code Ann. §5-7-300.
10. This Agreement is effective until December 31, 1998, and shall continue from year to year thereafter until terminated by either party upon 90 days notice in writing given prior to December 31.

MUNICIPAL ASSOCIATION OF SOUTH CAROLINA

By: _____

Howard E. Duvall, Jr.,
Executive Director

CITY/TOWN OF

By: _____

Mayor

DATE: _____, 19__

AN ORDINANCE
Amending the Business License Ordinance #4-1005
Provisions for Insurance Companies

WHEREAS, the South Carolina General Assembly, in order to ensure consistency with the federal Non-admitted and Reinsurance Reform Act of 2010 ("NRRRA"), ratified an act (Rat# 283) on June 28, 2012, amending S.C. Code §§ 38-7-16 and 38-45-10 through 38-45-195; and

WHEREAS, the act establishes a blended broker's premium tax rate of 6 percent comprised of a 4 percent state broker's premium tax and a 2 percent municipal broker's premium tax; and

WHEREAS, the act states a municipality may not impose on brokers of non-admitted insurance in South Carolina an additional license fee or tax based upon a percentage of premiums; and

WHEREAS, the act authorizes the Municipal Association of South Carolina to act as the municipal agent for purposes of distributing to municipalities the municipal broker's tax collected by the South Carolina Department of Insurance; and

WHEREAS, it is necessary to amend the Business License Ordinance to conform to the State law as amended;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Town of Eastover, that the Business License Ordinance is amended by changing the provisions for insurance companies as follows:

SECTION 1.

SIC NAICS

CODE, or CODE

63 5241

Insurance Companies: Except as to fire insurance, "gross premiums" means gross premiums written for policies for property or a risk located within the municipality. In addition, "gross premiums" shall include premiums written for policies that are sold, solicited, negotiated, taken, transmitted, received, delivered, applied for, produced or serviced by (1) the insurance company's office located in the municipality, (2) the insurance company's employee conducting business within the municipality, or (3) the office of the insurance company's licensed or appointed producer (agent) conducting business within the municipality, regardless of where the property or risk is located, provided no tax has been paid to another municipality in which the property or risk is located based on the same premium..

Solicitation for insurance, receiving or transmitting an application or policy, examination of a risk, collection or transmitting of a premium, adjusting a claim, delivering a benefit, or doing any act in connection with a policy or claim shall constitute conducting business within the municipality, regardless of whether or not an office is maintained in the municipality.

As to fire insurance, "gross premiums" means gross premiums (1) collected in the municipality, and/or (2) realized from risks located within the limits of the municipality.

Gross premiums shall include all business conducted in the prior calendar year.

Gross premiums shall include new and renewal business without deductions for any dividend, credit, return premiums or deposit.

Declining rates shall not apply.

631-632 52411	<u>Life, Health and Accident</u>	0.75% of Gross Premiums
633-635 524126	<u>Fire and Casualty</u>	2% of Gross Premiums
636 524127	<u>Title Insurance</u>	2% of Gross Premiums

SECTION 2.

Notwithstanding any other provisions of this ordinance, license taxes for insurance companies shall be payable on or before May 31 in each year without penalty. The penalty for delinquent payments shall be 5% of the tax due per month, or portion thereof, after the due date until paid.

SECTION 3.

Any exemptions in the business license ordinance for income from business in interstate commerce are hereby repealed. Gross income from interstate commerce shall be included in the gross income for every business subject to a business license tax.

SECTION 4.

Pursuant to S.C. Code Ann. §§ 38-45-10 and 38-45-60, the Municipal Association of South Carolina is designated the municipal agent for purposes of administration of the municipal broker's premium tax. The agreement with the Association for administration and collection of current and delinquent license taxes from insurance companies as authorized by S.C. Code § 5-7-300 and administration of the municipal broker's premium tax in the form attached hereto is approved, and the Mayor is authorized to execute it.

All ordinances in conflict with this ordinance are hereby repealed.

This ordinance shall be effective on the date of final reading.

Mayor

ATTEST:

Clerk

First reading: November 7, 2012

Final reading: December 3, 2012

Revised 9/2012

AGREEMENT

For Collection Of All Business License Taxes From Insurance Companies and Administration as Municipal Agent of Municipal Brokers Premium Tax

WHEREAS, the MUNICIPAL ASSOCIATION OF SOUTH CAROLINA (hereinafter "the Association") has developed a program for statewide collection of all current and delinquent business license taxes due from insurance companies licensed in this state; and

WHEREAS, participating municipalities have adopted uniform rates and delinquent penalties for insurance companies and a uniform due date of May 31 for such license taxes; and

WHEREAS, municipalities are authorized to contract for assistance in collection of business license taxes pursuant to S.C. Code Ann. § 5-7-300; and

WHEREAS, the Association's collection of business license taxes from brokers for non-admitted surplus lines insurers is now governed by S.C. Code Ann. § 38-45-10, et seq., which is incorporated herein by reference; now therefore,

WITNESSETH

THIS AGREEMENT is made between the MUNICIPAL ASSOCIATION OF SOUTH CAROLINA and the City/Town of Eastover, S.C. (the Municipality).

It is agreed between the parties as follows:

I. BUSINESS LICENSE TAXES FROM INSURANCE COMPANIES

1. The Association will make the necessary investigations, develop a database for the Municipality, establish procedures for determining the amount of business license taxes due, communicate with insurance companies subject to the taxes, and collect all current and delinquent business license taxes due from insurers on an annual basis.
2. The Association will bear all expenses incurred in connection with the services rendered.
3. The Association will deposit all funds received in an appropriate account for which accurate records will be maintained. Taxes collected for the municipality, less the service charge herein agreed to, will be disbursed to the Municipality as collections permit.
4. The Association is hereby designated as the exclusive agent of the Municipality for assessment and collection of the said business license taxes and penalties utilizing all

procedures and actions authorized by ordinance or State law, and such procedures and actions may be invoked in the name of the Municipality without further approval by the Municipality.

5. The Association will notify all insurance companies licensed in the State of this agreement and the requirement that all business license taxes be paid to the Association.
6. The Municipality acknowledges that it is an essential element of the programs for all such taxes to be paid to the Association, and no such taxes will be accepted, waived or compromised by the Municipality directly from or with an insurer. All communications from insurance companies will be sent to the Association. Payments accepted by the Municipality will be included in the computation of compensation to the Association.
7. The Municipality agrees that the Association shall retain 4 percent of all funds collected for the Municipality pursuant to this agreement, together with any interest earned on funds held on deposit prior to disbursement, as compensation for the services rendered.

II. Municipal Brokers Premium Tax

1. On behalf of its municipalities, the Association will communicate with brokers for non-admitted insurance companies subject to the tax in S.C. Code Ann. § 38-45-10, et seq. and will communicate with the South Carolina Department of Insurance on all issues related to the taxes due from brokers per S.C. Code Ann. § 38-45-10, et seq.
2. The Association will bear all expenses incurred in connection with the services rendered.
3. Per S.C. Code Ann. § 38-45-10 and ordinance adopted by the Municipality, the Association is designated as the municipal agent to act on behalf of the municipality for the purposes set out in S.C. Code Ann. §38-45-10, et. seq.
4. S.C. Code Ann. § 38-45-10, et seq., governs the Association's receipt from the South Carolina Department of Insurance ("DOI") and distribution to the municipality of all municipal premium taxes from brokers for non-admitted surplus lines insurance. Upon receipt of the taxes from the DOI, the Association will deposit all funds received in an appropriate account for which accurate records will be maintained. Taxes will be disbursed to the municipality, less the service charge herein agreed to, as collections permit.
5. The Municipality agrees that the Association shall retain 4 percent of all funds collected or received by the Association for the Municipality pursuant to this agreement, together with any interest earned on funds held on deposit prior to disbursement, as compensation for the services rendered.

III. TERM AND LEGALITY

1. The Municipality represents that this agreement has been approved by ordinance duly adopted pursuant to S.C. Code Ann. § 5-7-300.
2. This Agreement is effective until December 31, 2022, and shall continue from year to year thereafter until terminated by either party upon 90 days notice in writing given prior to December 31.

MUNICIPAL ASSOCIATION OF SOUTH CAROLINA

By: _____
Miriam O. Hair
Executive Director

CITY/TOWN OF

By: _____
Mayor

DATE: _____, 20__

AN ORDINANCE 4-1005
Amending The Business License Ordinance
Provisions For Insurance Companies and
For Brokers For Non-admitted Fire and Casualty Insurers

BE IT ORDAINED by the Mayor and Council of the City/Town of Eastover, that the Business License Ordinance is amended by changing the provisions for insurance companies and for brokers for non-admitted fire and casualty insurers to read as follows:

SECTION 1.

<u>SIC</u>	<u>NAICS</u>
<u>CODE</u>	<u>CODE</u>
63	5241

Insurance Companies: Except as in fire insurance "gross premiums" means gross premiums collected (1) on policies on property or risks located in the municipality, and (2) on policies, wherever the insured property or risk is located, that are sold, solicited, negotiated, taken, transmitted, received, delivered, applied for, produced or serviced by the insurance company's office located in the municipality or by the insurance company's employee doing business within the municipality or by the office of the insurance company's licensed or appointed producer (agent) located in the municipality or by the insurance company's licensed or appointed producer (agent) doing business within the municipality. As to fire insurance, "gross premiums" means gross premiums (1) collected in the municipality, and/or (2) realized from risks located within the limits of the municipality.

Gross premiums shall include new and renewal business without deductions for any dividend, credit, return premiums or deposit.

Solicitation for insurance, receiving or transmitting an application or policy, examination of a risk, collection or transmitting of a premium, adjusting a claim, delivering a benefit, or doing any act in connection with a policy or claim shall constitute doing business within the municipality whether or not an office is maintained therein. A premium collected on property or a risk located within the municipality shall be deemed to have been collected within the municipality. Declining rates shall not apply.

631-632 52411

Life, health and Accident.....0.75% of Gross Premiums

633-635 524126

Fire and Casualty.....2% of Gross Premiums

636 524127

Title Insurance.....2% of Gross Premiums

6411 524210

Brokers for Fire and Casualty Insurers -- Non-admitted:

As to brokers for non-admitted fire and casualty insurers, "gross premiums" means gross premiums collected by or for fire and casualty insurers not licensed in South Carolina (1) on policies on property or risks located in the municipality and/or (2) on policies, wherever the insured property or risk is located, that are sold, solicited, negotiated, taken, transmitted, received,

delivered, applied for, produced or serviced by a broker located in or doing business within the municipality. Brokers shall provide, with their payment of the tax, a copy of the report required by the State Department of Insurance showing the locations of the property or risks insured.....2% of Gross Premiums [Premiums for non-admitted business are not included in broker's gross commissions for other business. Declining rates shall not apply.]

SECTION 2

Notwithstanding any other provisions of this ordinance, license taxes for insurance companies and brokers for non-admitted fire and casualty insurers shall be payable on or before May 31 in each year without penalty. The penalty for delinquent payments shall be 5% of the tax due per month, or portion thereof, after the due date until paid.

SECTION 3

Any exemptions in the business license ordinance for income from business in interstate commerce are hereby repealed. Gross income from interstate commerce shall be included in the gross income for every business subject to a business license tax.

SECTION 4

The Agreement with the Municipal Association of South Carolina, pursuant to S.C. Code section 5-7-300, for collection of current and delinquent license taxes from insurance companies and brokers for non-admitted fire and casualty insurers shall continue in effect.

All ordinances in conflict with this ordinance are hereby repealed.

This ordinance shall be effective on the date of final reading.

Mayor

ATTEST:

Clerk

First reading: October 12, 2004

Town Attorney: Approved as to from only

Final reading: November 1, 2004